

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DONTE SUTTON,

Plaintiff,

v.

ALTAMIRANO, *et al.*,

Defendants.

Case No. 1:23-cv-01633-KES-BAM (PC)

ORDER DENYING DEFENDANT'S
MOTION TO COMPEL AS MOOT
(ECF No. 28)

ORDER CONSTRUING JOINT STATEMENT
AS JOINT MOTION TO MODIFY
DISCOVERY AND SCHEDULING ORDER
(ECF No. 30)

ORDER GRANTING JOINT MOTION TO
MODIFY DISCOVERY AND SCHEDULING
ORDER
(ECF No. 30)

Plaintiff's Discovery Responses Due: **July 10,
2025**

Exhaustion Motion Deadline: **September 8,
2025**

Plaintiff Donte Sutton ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff's first amended complaint Defendant Altamirano ("Defendant") for deliberate indifference to medical care for the incident on August 8, 2022, in violation of the Eighth Amendment.

Pursuant to the Court's December 2, 2024 discovery and scheduling order and April 2, 2025 order granting Defendant's unopposed motion to modify the discovery and scheduling

1 order, the deadline for filing motions for summary judgment for failure to exhaust administrative
2 remedies is July 1, 2025, and the deadline for completion of all discovery, including filing all
3 motions to compel discovery, is October 31, 2025. (ECF Nos. 24, 27.)

4 On June 4, 2025, Defendant filed a motion to compel Plaintiff to respond to Defendant's
5 propounded written discovery, including interrogatories and requests for production of
6 documents, set one. (ECF No. 28.)

7 The Court issued an order directing the parties to meet and confer regarding the discovery
8 dispute, and to file a joint statement following the parties' conference. The Court further stayed
9 briefing on Defendant's motion to compel pending the outcome of the parties' meet and confer.
10 (ECF No. 29.)

11 Currently before the Court is the parties' joint statement, signed by Plaintiff and counsel
12 for Defendant, filed June 13, 2025. (ECF No. 30.) The parties indicate that on June 10, 2025, the
13 parties met and conferred over the phone. During the meet and confer process, Plaintiff informed
14 defense counsel that he was recently placed into the Security Housing Unit ("SHU") due to an
15 alleged inmate-on-inmate attack, pending an internal investigation. As a result, Plaintiff claimed
16 that he could not have access to his legal paperwork. To facilitate the discovery process,
17 Defendant agrees to send the discovery requests to Plaintiff for the fourth time, by June 10, 2025.
18 In return, Plaintiff agrees to respond to the discovery requests within thirty days, by July 10,
19 2025. Additionally, because Plaintiff is in restraints, all depositions will be limited to a maximum
20 of two hours per day, which is too short to conclude a deposition. The June 12, 2025 will
21 therefore not proceed as planned. To schedule a new deposition, Plaintiff agrees to inform
22 Defendant within three days after he is released back to the general population. As of the date of
23 the joint statement, Plaintiff is scheduled to be released back to the general population by August
24 19 at the latest. However, Plaintiff could be released earlier pending a committee review. The
25 parties also requests that the Court extend the deadline to file a motion for summary judgment
26 based on failure to exhaust administrative remedies to September 8, 2025, or sixty days after
27 Plaintiff's deadline to respond to Defendant's discovery requests. The requested extension of
28 time is essential to obtain the necessary information from Plaintiff, set and take necessary

1 depositions of witnesses, and complete discovery prior to filing the motion.

2 The Court appreciates the parties' efforts and willingness to resolve this discovery dispute
3 without further briefing on the motion to compel. As it appears the discovery dispute will shortly
4 be fully resolved, Defendant's motion to compel will be denied as moot.

5 Further, in light of the resolution of Defendant's motion to compel and the additional time
6 required for Plaintiff to serve his responses on Defendant, the Court finds good cause to construe
7 the parties' request as a joint motion to modify the discovery and scheduling order and will grant
8 such motion.

9 Based on the foregoing, IT IS HEREBY ORDERED as follows:

- 10 1. Defendant's motion to compel, (ECF No. 28), is DENIED as moot;
- 11 2. The deadline for Plaintiff to serve responses to Defendant's Request for Production of
12 Documents and Interrogatories, Set One, is extended to **July 10, 2025**;
- 13 3. The joint statement, (ECF No. 30), is CONSTRUED as a joint motion to modify the
14 discovery and scheduling order;
- 15 4. The joint motion to modify discovery and scheduling order, (ECF No. 30), is GRANTED;
- 16 5. The deadline for filing motions for summary judgment for failure to exhaust
17 administrative remedies is extended from July 1, 2025 to **September 8, 2025**;
- 18 6. All other requirements set forth in the Court's December 2, 2024 discovery and
19 scheduling order and April 2, 2025 order, (ECF Nos. 24, 27), remain in place; and
- 20 7. **A request for an extension of a deadline set in this order must be filed on or before**
21 **the expiration of the deadline in question and will only be granted on a showing of**
22 **good cause.**

23
24 IT IS SO ORDERED.

25 Dated: June 17, 2025

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE
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